



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304; NRC-2013-0034]

Zion Nuclear Power Station, Units 1 and 2;

ZionSolutions, LLC;

Consideration of Indirect Transfer

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for license transfer; opportunity to comment; opportunity to request a hearing and petition for leave to intervene; order.

DATES: Comments must be filed by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]. A request for a hearing must be filed by [INSERT DATE 20 DAYS FROM THE DATE OF PUBLICATION].

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publicly available, by searching on <http://www.regulations.gov> under Docket ID **NRC-2013-0034**. You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0034**. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail Carol.Gallagher@nrc.gov.
- **Mail comments to:** Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
- **Fax comments to:** RADB at 301-492-3446.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: John B. Hickman, Project Manager, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3017; or e-mail at: john.hickman@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID **NRC-2013-0034** when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0034**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):**
You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The application dated January 10, 2013, is under ADAMS Accession No. ML13014A007.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID **NRC-2013-0034** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an Order under section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), approving the indirect transfer of Facility Operating License Nos. DPR-39 and DPR-48 for Zion Nuclear Power Station Units 1 and 2 (Zion), including the General License for the Zion Independent Spent Fuel Storage Installation ("Zion ISFSI"), currently held by ZionSolutions, LLC (ZS).

III. Introduction

By Order dated May 4, 2009, the NRC approved the transfer of control of Zion from Exelon Generation Company, LLC (“Exelon”) to ZS, and on September 1, 2010, the NRC issued license amendments to reflect the transfer of the Zion licenses from Exelon to ZS on that date. The decommissioning of Zion is actively underway, and pursuant to 10 CFR 50.82(a)(2), the operation of the Zion Units is no longer authorized under the 10 CFR Part 50 licenses.

ZS, a wholly owned subsidiary of EnergySolutions LLC (ES), was established solely for the purpose of acquiring the Zion Units and causing the Zion site (except for the Zion ISFSI where the spent fuel and Greater than Class C radioactive waste will be stored) to be decommissioned and released for unrestricted use, while maintaining the spent nuclear fuel and Greater than Class C radioactive waste safely stored in the ZNPS ISFSI. ES LLC and ES guaranteed the performance of ZS’s decommissioning obligations and obtained a \$200 million letter of credit, payable to a back-up nuclear decommissioning trust (“Back-Up NDT”). In addition, ES LLC has granted an irrevocable easement to disposal capacity at its Clive, Utah facility for the disposal of Class A low level waste from the Zion site, and this disposal capacity asset, together with related contractual rights, are held by the Back-Up NDT.

According to an application for approval dated January 10, 2013 (ADAMS Accession No. ML13014A007), ZS is requesting that the NRC consent to the indirect transfer of control of Facility Operating License Nos. DPR-39 and DPR-48 for Zion held by ZS, including the General License for the Zion ISFSI, to the extent required. The indirect transfer of control would result from a proposed transaction whereby the ultimate parent holding company of ZS, ES, would be acquired by Rockwell Holdco, Inc., a Delaware corporation that was formed for the purpose of acquiring ES and is held by certain investment fund entities organized by controlled affiliates of Energy Capital Partners II, LLC.

While the proposed transaction will result in an indirect transfer of control of ZS and the Zion Licenses held by ZS, no changes to the current technical qualifications, financial assurances, or operations, of ZS as the NRC's licensee for Zion are being proposed in the application. Further, the closing of the transaction and the indirect upstream change of control resulting therefrom will not result in any change in personnel responsible for conducting licensed activities.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the indirect transfer will not affect the qualifications of the licensee to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission pursuant thereto.

Before issuance of the proposed order, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (The Act), and the Commission's regulations.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

III. Opportunity to Request a Hearing; Petition for Leave to Intervene

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, located at O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800-397-4209 or 301-415-4737). The NRC's regulations are available online in the NRC Library at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>.

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene via electronic submission through the NRC's E-Filing system. As required by the Commission's rules of practice at 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of the transfer of control of the license in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for

amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with the NRC regulations, policies, and procedures. The Licensing Board will set the time and place for any pre-hearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 20-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) the information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1) and (2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by **[INSERT DATE 20 DAYS FROM THE DATE OF PUBLICATION]**. The petition must be filed in accordance with the filing instructions in section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe does not need to address the standing requirements

in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance under 10 CFR 2.315(a), by making an oral or written statement of his or her position on the issues at any session of the hearing or at any pre-hearing conference, within the limits and conditions fixed by the presiding officer. However, that person may not otherwise participate in the proceeding.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings, unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an

NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a

transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call to 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer

subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Attorney for applicant: John E. Matthews, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington DC 20004, 202.739.5524, jmatthews@morganlewis.com.

Dated at Rockville, Maryland this 11th day of February 2013.

FOR THE NUCLEAR REGULATORY COMMISSION

Andrew Persinko, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
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Office of Federal and State Materials
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